

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

NO POSTAGE
Release within 10 District

Person to Contact:

Date 8-21-89

Telephone Number:

Surname [REDACTED]

Refer Reply to:

Date:

JUL 11 1989

E.I.N.: [REDACTED]
K.D.O.: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify under that section.

Our records indicate that you were incorporated under the laws of [REDACTED] on [REDACTED]. Your purpose as stated in your articles of incorporation is "To promote and enhance the Public Image of [REDACTED] in the United States." Activities will include but are not limited to educational workshops, national communication efforts both external and internal, and interacting with civic and government agencies for the purpose of a public relations emphasis for all Americans of [REDACTED] descent.

You state that you do not intend to solicit active general membership per se, but you do anticipate a loose federation of various [REDACTED] umbrella groups throughout the United States.

You actively promote an affinity credit card co-sponsored by [REDACTED]. The primary purpose of the affinity card is promote the image of the [REDACTED] because it is the only nationally recognized credit card that has the name "[REDACTED]" on it. In [REDACTED] you received a total of \$[REDACTED] from the affinity card program which constituted your total income for that year. You state that the affinity card program is the only program that you have in place at the present time to generate income.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues and chambers of commerce not organized for profit.

"This ruling is applicable to the taxpayer named herein. It must not be relied on, used, or cited as a precedent by Internal Revenue Service personnel in the disposition of other cases."

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having a common business interest, whose purpose is to promote the common business interest and not engage in a regular business of a kind ordinarily carried on for profit. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business rather than the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis and produces only sufficient income to be self-sustaining, it is not an exempt business league.

In National Muffler Dealers Assn., v. United States, 440 U.S. 472, 59 L. Ed. 2d 519 (1979), the United States Supreme Court affirmed a lower court decision that an organization of muffler dealers franchised by Midas International Corporation, which organization had confined its membership to Midas dealers and its activities to the Midas muffler business, was not a "business league" within the meaning of Code section 501(c)(6). The Court validated the "line of business test set forth in section 1.501(c)(6)-1 of the regulations and further recognized a body of authority interpreting that test to mean that an organization's activities must be directed to the improvement of business conditions in an "entire industry" or "all Components of an industry within a geographic area." 440 U.S. at 483-2, 59 L. Ed.2d at 528.

Rev. Rul. 55-444, 1955-2 C.B. 258, describes an organization formed to promote the business of a particular industry and which conducted a general advertising campaign to encourage the use of products and services of the industry as a whole which was held to be exempt under section 501(c)(6) of the Code notwithstanding that such advertising to a minor extent constituted the performance of particular services for its members.

Rev. Rul. 76-400, 1976-2 C.B. 153, held that a nonprofit organization formed as a membership organization of business and professional women that promotes the acceptance of women in business and the professions qualifies for exemption under section 501(c)(6) of the Code.

Rev. Rul. 83-164, 1983-2 C.B. 95, held that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption under section 501(c)(6) of the Code.

Section 513(c) of the Code states, in part, that for purposes of that section, the term "trade or business" includes any activity which is carried on for the production of income from the sale of goods or the performance of services.

Section 1.513-1(a) of the regulations provides, in part that the term "unrelated trade or business" means, in the case of an organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under section 501.

Section 1.513-1(b) of the regulations provides, in part, that the term "trade or business" has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or the performance of services.

Section 1.513-1(d)(2) of the regulations provides that a trade or business is "related" to exempt purposes, in the relevant sense, only where the conduct of the business activities has a causal relationship to the achievement of exempt purposes (other than through the production of income), and is "substantially related," for purposes of section 513, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services must contribute importantly to the accomplishment of those purposes.

We believe it to be well settled that the original extension of tax-exempt status to chambers of commerce and similar organizations designed to promote the trade and commerce of a community was intended to cover membership organizations of a type characteristically supported by dues. For example, statements submitted by the Chamber of Commerce concerning the relevant portion of the Income Tax Act of 1913 made explicit references to the "association" and "membership" character of the organizations in question. The membership character of the organization for which exemption was asked is also implicit in repeated allusions to "chambers of commerce" as being representative of the type of

organization for which exemption was sought. On the matter of the income characteristics of such organizations, the Chamber emphasized that:

Exemption is asked only for commercial organizations which are not organized for profit. These organizations receive their income from dues paid by their members, a form of voluntary tax which business men pay if they may receive in common with all other members of their communities or of their industries the benefits of cooperative study of local development, of civic affairs, of industrial resources, and of local, national, and international trade.

See, Briefs and statements, Senate Committee on Finance, 63d Cong. 1st Sess. 2001 (1913). We think it obvious that, in enacting section 501(c)(6), Congress was responding to the representation of the Chamber of Commerce that the section was intended to apply only to organizations which further the common business interests of their members and which are financed through membership dues. The legislative history of the statute, and the rules of statutory construction applicable to subchapter F, provide that only membership organizations supported by membership dues or assessments are included in the term of the exemption. Thus, an organization which is not in fact membership supported lacks the most significant characteristic common to organizations for which exemption was provided under section 501(c)(6). Accordingly, we believe that an organization which has demonstrated a pattern of non-membership support must necessarily fail a critical test of exemption under section 501(c)(6).

While Your membership is currently composed only of your Board of directors who may have a variety of interests, they must have a common interest of a business nature that is promoted by the organization. Unlike the organization described in Rev. Rul. 76-400, supra, promoting the image of the [REDACTED] is not promoting or improving the conditions of a line of business within the meaning of section 501(c)(6) of the Code. In this respect, you can be distinguished from the organization described in that ruling. Furthermore, because you are not supported by membership dues, the membership feature of the organization is severely impaired for purposes of exemption under section 501(c)(6).

Your only activity to date has been the promotion of affinity credit cards among [REDACTED]. Your involvement in this activity constitutes the performance of services and possess the general characteristics of a trade or business within the meaning

[REDACTED]

of section 162. You serve as a "middleman" between those who desire to attain the affinity card and the bank providing the card. You have not established that this activity furthers any exempt purpose.

Unlike the organization described in Rev. Rul. 55-444 supra, you are not conducting a general advertising campaign to encourage the use of products of an industry as a whole. Your activities serve only the interests of [REDACTED], a segment of the banking or credit card industry. See National Muffler Dealers, and Rev. Rul. 83-164, supra. Furthermore, by bringing together consumers and providers of credit card services you are providing particular services for your members.

Because you are primarily engaged in a business activity of a kind ordinarily carried on for profit, provide particular services to your members and serve only a segment of a line of business, you are not an organization described in section 501(c)(6) of the code and are not entitled to exemption under that section.

You have the right to protest this proposed ruling if you believe that it is incorrect. To protest you should submit a statement of your views with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to the District Director, Brooklyn, NY. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to the District Director of Internal Revenue.

[REDACTED]

If you decide to protest this proposed ruling, you will expedite our receipt of your communication by placing the following symbols on the envelope as part of our address: [REDACTED]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]
Chief Exempt Organizations
Rulings Branch 1

cc: [REDACTED]

cc: [REDACTED]